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~~U.S. DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA~~

ANTONIO MARTINEZ

Plaintiff

V

NURSE STEWART, et al.

Defendants.

in the United States District Court
for the MIDDLE DISTRICT OF ALABAMA

2006 MAY 22 A 9:40

U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

Civil Action No. 3:06-CV-257-MHT

Plaintiff ANTONIO MARTINEZ'S ANSWER.

COME'S NOW Plaintiff Martinez, and ANSWER the
Defendants AFFIRMATIVE DEFENSES

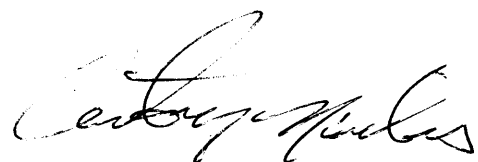
ANSWER

Plaintiff ANTONIO MARTINEZ NOW brings Proof
against AFFIRMATIVE DEFENSES.

1. That a claim is stated, and it is that Plaintiff
Martinez's Rights are being violated under the 8th
amendment.
2. Nurse Stewart has no individual capacity
when employed by the state, therefore has no
immunity
3. Nurse Stewart's official capacity is a state
correctional officer, and is not entitled to
absolute immunity from these claims.
4. Nurse Stewart, in her official capacity, is a
Person under 42 U.S.C. 3 1983.
5. Available Administrative Remedies were exhausted
with no response from appropriate authorities

6. the casual link between alleged acts of nurse Stewart was the approval of Plaintiff Martinez's removal from medical dorm to general Population
7. the "respondent superior" theories of liability are not admissible because nurse Stewart is the Boss of the medical section of the jail
8. under the 8th amendment, the Plaintiffs rights are violated by willful neglect of Plaintiffs medical needs by nurse Stewart,
9. AN inguinal Hernia is A serious medical need because at anytime a rupture can occur, leading to serious injury, and possibly death from toxins in the digestive tract.
10. nurse Stewart showed deliberate indifference by letting officer Wiltse move Plaintiff to general Population
11. Plaintiff Martinez reserves the right to counter any defense apons the investigation on the Defendants behalf.

Respectfully Submitted this 15th Day
of May, 2006



CERTIFICATE OF SERVICE

I HERBY CERTIFY ON THIS 15TH DAY OF MAY, 2006,
I FILED THE FORGOING TO THE CLERKS OFFICE
AND AMANDA KAY MORGAN, P.C., DEFENDANTS
ATTORNEY, THROUGH THE MAIL, TO

AMANDA KAY MORGAN
%WEBB & ELLY, PC.
7475 HALCON POINTE DR.
P.O. BOX 240909
MONTGOMERY, AL. 36124

